

REMARKS

Applicants respectfully request reconsideration and withdrawal of the rejections set forth in the Office Action.

Rejections Under 35 U.S.C. § 112 - Indefiniteness

Claim 1 has been amended to state the relationship between the absorbent, the reaction material and the bottom support layer. One of skill in the art would understand that an absorbent functions to absorb liquid.

The amendment to claim 1 overcomes the rejection to claims 4 and 5 because the relationship between the absorbent, the reaction material and the bottom support layer has been made more clear.

The typographic errors in claim 10 have been corrected.

Claims 11 and 45 have been canceled, rendering this rejection moot.

Claim 13 has been amended to give the blocking protein antecedent basis to the electron rich blocking protein of claim 1. Claim 46 has been canceled. Claim 13 has also been amended to provide antecedent basis with respect to all of the features of claim 1.

Claim 18 has been amended to have antecedent basis with claim 1.

The extra "wherein" of claim 20 has been deleted.

Rejections Under 35 U.S.C. § 112 – Written Description

Claim 13 has been amended to clarify that the blocking protein is the electron rich blocking protein of claim 1. Claim 46 has been canceled.

Rejections Under 35 U.S.C. § 103 – Obviousness

In response to the rejections of obviousness, applicants submit that the invention is not obvious for the following reasons. To establish a *prima facie* case of obviousness, there must be (1) motivation to combine or modify references, (2) a reasonable expectation of success and (3) a teaching or suggestion of all the elements of the claims. The examiner must be able to argue all three to demonstrate a *prima facie* case. Applicants contend that there is

no motivation to combine or modify the references to arrive at the present invention and there is no teaching or suggestion of all of the features of the claims.

The body of absorbent material of the present invention is between and in contact with the upper reaction membrane and the lower bottom support layer. Thus, when the immunoassay device is used the absorbent material exists in a wet condition, as immunoassays for liquid samples are done in a liquid environment. In contrast, as acknowledged by the Examiner, Lin teaches using the absorbent material in a dry state, that is for blotting. (See column 2, lines 44-49.) Thus Lin does not teach a body of absorbent material invention that is between and in contact with the upper reaction membrane and the lower bottom support layer. By not teaching this feature of the invention, Lin does not teach all of the features of the claims nor would any combination of the cited references motivate one of ordinary skill in the art to arrive at the present claims. In support of this argument, applicants attach hereto a declaration by Dr. Dhar that in part addresses this point.

In light of the claim amendments and arguments presented above, applicants submit that the present application is now in condition for allowance, and favorable reconsideration thereof is respectfully requested. If the Examiner believes that an interview would advance prosecution of the application, he is invited to contact the undersigned by telephone.

If there are any unaccounted fees due in connection with the filing of this Amendment, please charge the fees to our Deposit Account No. 19-0741. If a fee is required for an extension of time under 37 C.F.R. § 1.136 that is not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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